

‘And there’ll be NO dancing’



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## *Perspectives on Policies Impacting Indigenous Australia since 2007*

Edited by

Elisabeth Baehr

and Barbara Schmidt-Haberkamp

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'And there'll be NO dancing':  
Perspectives on Policies Impacting Indigenous Australia since 2007

Edited by Elisabeth Baehr and Barbara Schmidt-Haberkamp

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# TABLE OF CONTENTS

Tables, Figures and Illustrations .....	vii
Abbreviations .....	ix
Introduction .....	1
<i>Elisabeth Baehr and Barbara Schmidt-Haberkamp</i>	
The Intervention: The Truth, the Whole Truth and Nothing but the Truth? .....	13
<i>Lindsay Frost</i>	
The Seven Pillars of Aboriginal Exception to the Australian State: Camps, Refugees, Biopolitics and the Northern Territory Emergency Response (NTER) .....	87
<i>Victoria Grieves</i>	
Sporting Intervention: The Northern Territory National Emergency Response and Papunya Football .....	110
<i>Barry Judd</i>	
Change from the Ground up: The Intervention and Indigenous Land Reform .....	128
<i>Leon Terrill</i>	
The Intervention, Stronger Futures and Racial Discrimination: Placing the Australian Government under Scrutiny .....	145
<i>Shelley Bielefeld</i>	
Rampant Misrepresentation: News Reporting's Recurrent Lexical Choices .....	167
<i>Michelle Dunne Breen</i>	
Stories of the Intervention: The Narrative Power of the Law .....	185
<i>Katrin Althans</i>	

A “Place to Start”: First Australian Stories Negotiating the Intervention .....	198
<i>Hanne Birk</i>	
The Intervention in Indigenous Literature: Alexis Wright’s <i>The Swan Book</i> .....	212
<i>Dorothee Klein</i>	
Reassessing Indigenous Self-Determination in Rolf de Heer’s <i>Charlie’s Country</i> (2014) .....	228
<i>Victoria Herche</i>	
“An Australian Government Initiative: Criminal”: The Intervention in Australian Art .....	243
<i>Elisabeth Baehr</i>	
Imposed Solutions versus Local Aspirations: Two Recent Policy Decisions Affecting Remote Education in the Northern Territory .....	264
<i>Samantha Disbray and Brian Devlin</i>	
The Protector of Aborigines in Colonial Western Australia: Origins of Humanitarian Interventions .....	288
<i>Alexander Bräuer</i>	
“Who Are the Aborigines?”: Western Images of Indigenous Australians .....	307
<i>Stefanie Affeldt</i>	
Contributors .....	332
Index .....	336

## TABLES, FIGURES AND ILLUSTRATIONS

Budget items for stabilisation phase of the Intervention, 2007–08 .....	22
ALRA land and Indigenous communities prescribed (NTER) in the Intervention legislation .....	28
Granites Gold Mine, north-west of Yuendumu .....	30
Unemployment rate by State and by Indigenous status, 2001–2011 .....	31
Indigenous and non-Indigenous homelessness rate per 10,000 population in 2001 and 2006, by State and by Indigenous status .....	39
Numbers of substantiation of sexual abuse of Indigenous children in the NT and across Australia, 2004 to 2008 .....	43
Numbers of substantiation of sexual abuse of Indigenous children in the NT and across Australia, 2009 to 2013 .....	44
Rate of substantiation of sexual abuse of Indigenous children in the NT and across Australia, 2004 to 2013 .....	45
Health conditions of 7,730 Indigenous children in prescribed communities in 2007–2008 .....	46
Total wholesale sales of pure alcohol (thousands litres) in Alice Springs ..	52
NAPLAN Test participation rates and results, 2008–2012, averaged over grades 3, 5, 7, 9 .....	56
Number of Indigenous prisoners in the NT in 2014 serving prison terms of the period shown, together with a comparison trend line for non- Indigenous prisoners in the NT .....	62
Numbers of Indigenous prisoners in 2005–2014 in NT compared to non- Indigenous prisoners, with growth trends across the whole of Australia ....	64

Aboriginal and Torres Strait Islander age-standardised imprisonment rate(s) per 100,000 of population, per state, 2004 and 2014 .....	65
Chips Mackinolyt, ... and there'll be NO dancing, 2007, digital print, 49.5×49.5 cm .....	249
Jason Wing, An Australian Government Initiative: Criminal, 2010, digital photograph on metallic fuji flex paper, 150×100 cm .....	252
Blak Douglas (aka Adam Hill), Abuse of Power, 2009, synthetic polymer paint on canvas, 85×230 cm .....	255
Teena McCarthy, Terror Nullius II, 2011, acrylic, oil, ochre and charcoal from the Finke River on wood, 28.5×16 cm .....	257
Jacques Louis Copia, Pêche des Sauvages du Cap de Diemen, 1791, etching, 24×38.8 cm (32×46 cm sheet) .....	310
Alexander Schramm, Civilisation versus Nature, 1859, lithograph, 14.2×20.2 cm .....	311
Sydney Parkinson, Two of the natives of New Holland, advancing to combat, 1770, pencil on paper, 18.4×23.5 cm (sheet) .....	312
Thomas Chambers, Two natives of New Holland, advancing to combat, 1773, engraving on paper, 11.5×17.6 cm (25.5×20 cm sheet) .....	313



## ABBREVIATIONS

AACTA	Australian Academy of Cinema and Television Arts
AAP	Australian Associated Press
ABC	Australian Broadcasting Corporation
ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
AFL	Australian Football League
AHRC	Australian Human Rights Commission
AIHW	Australian Institute of Health and Welfare
ALRA	Aboriginal Land Rights Act (Northern Territory) 1976 (Cth)
ARC	Australian Research Council
ATSIC	Aboriginal and Torres Strait Islander Commission
BMI	Body Mass Index
CAFL	Central Australian Football League
CAR	Council for Aboriginal Reconciliation
CDEP	Community Development Employment Projects
CDP	Community Development Programme
CDU/CSU	Christian Democratic Union / Christian Social Union (Germany)
Centrelink	Client support department for the Australian federal government, Department of Human Services
CERD	(United Nations) Committee on the Elimination of All Forms of Racial Discrimination
CEO	chief executive officer
CHC	Child Health Check
CHCI	Child Health Check Initiative
CLA	Aboriginal community living area land
CLR	Commonwealth Law Reports
CMoA	Carnegie Museum of Art
COAG	Council of Australian Governments
Cth	Commonwealth
DAA	Department of Aboriginal Affairs
DEET	Northern Territory Department of Employment, Education and Training
DFG	German Research Foundation
DHsg	Department of Housing

EDTL	Executive Director of Township Leasing
ESL	English as a Second Language
ETSI	European Telecommunications Standards Institute
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
FIFDH	International Film Festival and Forum on Human Rights
GASt	Association for Australian Studies (Germany)
GR	General Recommendation (of CERD)
GST	Goods and services tax
HCA	High Court of Australia
HGI	Home Gateway Initiative
HP	health professionals
HRC	Australian Human Rights Commission
HRPS	Human Rights (Parliamentary Scrutiny) Act 2011 (Cth)
IBA	Indigenous Business Australia
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
LAAL	Living Archive in Aboriginal Languages
LCAS	Little Children Are Sacred
LCASR	Little Children Are Sacred report
NACC	National Aboriginal Consultative Committee
NAPLAN	National Assessment Program – Literacy and Numeracy
NATSIHS	National Aboriginal and Torres Strait Islander Health Survey
NFP	not for profit
NHS	National Health Service
NIC	National Indigenous Council
NIM	new income management
NPARIH	National Partnership Agreement on Remote Indigenous Housing
NSW	New South Wales
NT	Northern Territory
NTA	Native Title Act 1993
NTER	Northern Territory Emergency Response
NTEReval	Northern Territory Emergency Response Evaluation Report 2011 (FaHCSIA 2011)
NTJP	Northern Territory Jobs Package
NTNER	Northern Territory National Emergency Response Act 2007 (Cth)
OBS	Outback Stores

OECD	Organisation for Economic Co-operation and Development
PJCHR	Parliamentary Joint Committee on Human Rights
QC	Queen’s Counsel
RDA	Radical Discrimination Act 1975 (Cth)
RegNet	Regulatory Institutions Network
RJCP	Remote Jobs and Communities Programme
RMIT	Royal Melbourne Institute of Technology
SAE	Standard Australian English
SEAM	School Enrolment and Attendance through Welfare Reform Measure
SIDS	Sudden Infant Death Syndrome
SFNT	Stronger Futures in the Northern Territory Act 2012 (Cth)
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNTS	United Nations Treaty Series
WTFL	Wilurarra Tjutaku Football League



# INTRODUCTION

ELISABETH BAEHR  
AND BARBARA SCHMIDT-HABERKAMP

We as Aboriginal people call on the international community to hold Australia to account for its continuing crimes against humanity for its treatments of its First Nations people.

Statement by Northern Territory Elders and Community Representatives (Gondarra et al. 2015, 142)

Just before the federal election in 2007, the Australian federal government led by John Howard issued the “Northern Territory National Emergency Response” (NTNER) legislation, commonly known as the Intervention, officially in reaction to a report by the Northern Territory (NT) government about allegedly rampant sexual abuse and neglect of Indigenous children. These emergency laws authorised the Australian government to drastically intervene in the self-determination of NT Indigenous communities, in contravention of the UN Declaration of Human Rights and of the Rights of Indigenous Peoples. Among the measures taken were a massive influx of police and (unarmed) military into the respective communities, a suspension of the *Racial Discrimination Act 1975* (Cth), a cancellation of the right to prohibit access by non-community members to areas belonging to Indigenous communities according to the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth), the abolition of the consideration of Indigenous customary law, compulsory lease (for zero dollars) to the government of Indigenous lands in public areas, the mandatory management of individual social security income, alcohol restrictions and the banning of pornography, and an intended compulsory medical examination of all children in the areas concerned. Billboards were set up at the entrances of 73 prescribed Indigenous communities in the Northern Territory announcing that pornography and alcohol were banned, thereby “publicly branding [them] as spaces of perversion and decay” (Povinelli 2011, 54).

The Intervention, with bipartisan support of the Howard government and the Rudd opposition, set a spectacular end to the politics of self-

determination and recognition that had characterised Indigenous policy in the last three decades of the 20th century. It did not come as a complete surprise: conservatism had resurged since the 1980s, pragmatism and culturalism were becoming the preferred approaches in Indigenous policy.<sup>1</sup> Since the mid-1990s, government policy has been increasingly insistent that Indigenous Australians “need to undergo forms of cultural redevelopment” (Hinkson 2010, 1). When the Intervention expired after five years, its policy was continued by the Stronger Futures legislation in the Northern Territory, which passed into law in June 2012 for a ten-year period until 2022. Finally, the national policy of “Closing the Gap” between the disadvantaged living conditions of Indigenous people and those of mainstream Australia in the fields of health, education, employment and housing was announced in 2008 and today forms the core of Indigenous policy. The “Closing the Gap” framework, as the name suggests, is assimilationist and “based on the assumption that the Indigenous population aspires to attain Western norms” (Altman and Russell 2012, 5). The ending of bilingual education in the NT in 2008 is just one obvious example. Calls to close the socio-economic gap between the Indigenous and the non-Indigenous populations “are premised on indigenous dysfunction, not sovereign entitlement”, as Lorenzo Veracini reminds us (2010, 46).<sup>2</sup> Last but

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<sup>1</sup> For an account of the Howard government, see Markus (2001); Morris and Lattas summarise, with a good measure of irony, the paradigm shift with reference to the Intervention as follows: “Today, many politicians, academics and journalists justify the Intervention as a movement away from the abstract, wishy-washy, idealist, political objective of Indigenous self-determination and towards realising practical, measurable goals that will truly benefit Indigenous communities” (Morris and Lattas 2010). “Culturalism” is defined by Markus as a variant of the “belief system” of race, emerging, alongside the concept of race, in the 19th century and “concerned with the transmission of distinctive cultural values from one generation to the next” (Markus 2001, 5). Morris and Lattas argue that in contemporary discourse “[c]ultural determinism has worked to relocate the internalised sources of racial dysfunctionality from the realm of inherited biology to the realm of inherited culture” and that “culture has replaced race as the new way of producing internalised essentialisms” (Morris and Lattas 2010). On “culture” as a contested site of debate in anthropology, see the contributions in Altman and Hinkson (2010).

<sup>2</sup> On “Closing the Gap”, see also Emma Kowal, who addresses the racism inherent in identifying “a particular disadvantaged group as ‘Indigenous people’, rather than, say, homeless people, the mentally ill, or the colour-blind, all groups that might also have gaps that we could measure and try to close” (Kowal 2015, 36).

not least, none of the policies mentioned have been negotiated with Indigenous Australians, but have been imposed upon them.

The Intervention and the political measures subsequently taken—up to and including steps leading to closure of remote outstations and removal of people to larger townships in Western Australia—have led to heated controversies and continue to divide the Australian nation until the present day. They have put a strain on the relationship between the Indigenous and non-Indigenous populations, revived the trauma of the colonial past and substantially damaged the process of reconciliation. Even more, “Aborigines’ rights to their own land, language, culture and education and to self-determination are arguably under greater threat today than at any time in the last fifty years” (Collingwood-Whittick 2012, 115). Far from improving the living conditions of Indigenous Australians, government policies have resulted in disempowerment, widespread despair and loss of self-esteem, and more specifically, increased rates of suicide and self-harm, criminalisation, unemployment and dependence on welfare income.

It is trivialising to talk about the realisation of Indigenous rights and the improvement of Indigenous people’s living conditions in terms of “unfinished business” (Adair and Schwarz 2016, 5) or “our national story seems somehow stuck” (Hall 2015, 183), as can so often be read. The situation of Indigenous Australians in remote communities has continued to deteriorate and might indeed come to the point described by Alexis Wright in her latest novel *The Swan Book* (2013). *The Swan Book* is a furious anti-Intervention novel, a dark dystopia set in an unspecified future towards the end of the century: the earth is wrecked by climate change and pollution and people all over the world are refugees from their own countries, with the exception of the Indigenous people of Australia. The Intervention is still in operation and the Indigenous Australians are imprisoned in detention centres under control of the military. This is how Alexis Wright envisions the future of Indigenous Australia:

This was the history of the swamp ever since the wave of conservative thinking began spreading like wildfire across the twenty-first century, when among the mix of political theories and arguments about how to preserve and care for the world’s environment and people, the Army was being used in this country to intervene and control the will, mind and soul of the Aboriginal people. The military intervention was seen as such an overwhelming success in controlling the Aboriginal world it blinded awareness of the practical failures to make anyone’s life better in the swamp. This “closed ear” dictatorial practice was extended over the decades to suit all shades of grey-coloured politics far-away in Canberra, and by tweaking it ever so little this way and that, the intervention of the Army never ended for the swamp people, and for other Aboriginal people

like themselves who were sent to detention camps like the swamp to live in until the end of their lives. The internment excluded the swamp people from the United Nations' Universal Declaration of Human Rights, and the control proliferated until there was full traction over what these people believed and permeance over their ability to win back their souls and even to define what it meant to be human, without somebody else making that decision for them (Wright 2015, 47–48).

Alexis Wright's vision is as dire as the prophetic inscription on Chips Mackinolty's print ... *and there'll be NO dancing* (2007), which forms the title to this volume, linking the Intervention with the eradication of joy and conviviality.<sup>3</sup>

This volume places the Intervention and its subsequent policies under scrutiny. It has its genesis in a two-day workshop on behalf of the German Association for Australian Studies (GASt), "The Intervention and its Consequences", which was organised at the University of Bonn, Germany, in October 2015. It includes a selection of the conference papers, as well as additional invited essays, by Australian and German scholars from diverse academic disciplines including history, sociology, law, Indigenous studies, art history, literary and cultural studies, education and media studies. The purpose of the volume is to investigate (historical) contexts and discourses of the Intervention and its subsequent policies, to critically assess some of the measures and to provide a close reading of relevant sources and responses. It aims to engage readers in the debate about human rights, about Indigenous self-determination and about the preservation of Indigenous culture. We expect that the bitter irony of a workshop in Germany analysing racism and discrimination in Australia will raise hackles, but we also hope it will raise the alarm concerning the interventions.

This volume does not suggest new solutions, but it urgently suggests the need for new visions, as in "I have a dream ..." proclaimed by Martin Luther King in 1963. Prerequisite to change are new narratives—about Indigenous Australians, about Australia. Narratives play a fundamental role in our perception and interpretation of the world. As "ways of worldmaking" (Goodman 1978), narratives generate hierarchies of knowledge and, as cultural practices, they are involved in the process of the cultural constitution of meaning. Narratives are power politics: every narrative, literary or non-literary, negotiates a struggle over cultural hegemony and meaning, defining who functions as the speaking and perceiving subject and who functions as the subordinate object of the

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<sup>3</sup> For a discussion of the print, see chapter eleven.



narrative. The contributions to this volume give ample evidence of the power of narratives: the narratives which circulated in the media storm surrounding the launching of the Intervention and which were subsequently cast into legal narratives, the narratives about the necessity of “emergency surgery”, the narratives that have been constructed to describe, derogate and discredit Indigenous Australians over time and in the present.

The currently prevailing narrative about Indigenous Australians associates them with failure and dysfunction, blamed on their culture and not in any way related to the trauma of colonialism. A narrative of decolonisation is needed, to replace the “typical settler narrative” with its double goal of suppressing the Indigenous population and performing the indigenisation of the settlers (Johnston and Lawson 2000, 369). Veracini argues, “the decolonization of settler colonial forms needs to be imagined before it is practiced” (Veracini 2010, 108). Stories matter; visions matter.

We do believe that the paternalistic, coercive and racist policy reinvented by the Howard government with its profoundly destructive impact on Indigenous peoples’ lives and future does not receive enough international attention. “It was global awareness that helped to bring an end to apartheid in South Africa”, as Anthony Hayward (2013) points out in his notes to John Pilger’s documentary *Utopia*, a searing summary of decades of neglect, lack of consultation, third-world health conditions and withholding of mining royalties. It is hoped that our workshop in Germany and the publishing of this volume as well as the collaboration of Australian and German scholars on the subject contributes to raising greater international awareness to the assimilationist policy that has engulfed Indigenous Australians since the mid-1990s. The resulting destruction of their culture is ethnocidal, if not genocidal, in its impact.<sup>4</sup>

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<sup>4</sup> See Sheila Collingwood-Whittick, who calls the government’s assimilation policy and its “maintenance of key NTER measures [...] fundamentally ethnocidal in intent” (Collingwood-Whittick 2012, 129). See also Fiona Bateman and Lionel Pilkington on “the genocidal tendencies of settler colonialism towards the indigenous” (Bateman and Pilkington 2011, 9) and Patrick Wolfe’s article in the same volume tracing the desire of settler colonialism to bring about the “elimination” of Indigenous people (Wolfe 2011). See also Irene Watson: “Without recognition, Indigenous peoples will continue to be vulnerable to the genocidal policies of the various states in which they live. I say this even though on the face of it, state politics regarding Indigenous peoples have not been judged to reveal clear genocidal intentions. Yet for centuries, different states and their Indigenous policies have been genocidal in their impact” (Watson 2005, 45). For a comparative

The Australian myth of the “Fair Go” is indeed either a “lost utopia”, or at best “an endangered value” (Adair and Schwarz 2016, 7) that must be reclaimed in order to preserve Indigenous ways of life, to realize the co-existence of Indigenous and non-Indigenous Australians and to enable Indigenous people to live their lives with equal rights, in self-determination.

## Synopsis

Since this volume is directed at an international readership, the vast majority of whom will not be informed about the Intervention, the first contribution “The Intervention: The Truth, the Whole Truth and Nothing but the Truth?” by Lindsay Frost provides the background for the following articles by giving a comprehensive survey of the context and events relevant to the Intervention. Drawing on government reports and academic publications, the article gives dates and figures, measures and their assessments, documenting the failure of the Intervention to bring about positive results and the way it resulted—contrary to the recommendations of the *Ampe Akelyernemane Meke Mekarle: Little Children are Sacred* report (LCASR) which triggered it in the first place—in widespread disempowerment of Indigenous Australians and loss of Indigenous community control over their lives and future.

The next two chapters by Victoria Grieves and Barry Judd provide Indigenous perspectives on the Intervention and its consequences. In her article “The Seven Pillars of Aboriginal Exception to the Australian State: Camps, Refugees, Biopolitics and the Northern Territory Emergency Response (NTER)”, Victoria Grieves argues that the Intervention is a variation on the theme of racist governance that has always applied and continues to apply to Indigenous people all over Australia. Drawing on Georgio Agamben’s theory of the state of exception, she describes Indigenous Australians as existing in a structural state of exception to the Australian settler colonial state in which they are denied the rights of citizens, including human rights, and in which they are reduced to “bare life” subject to the violence of the modern democratic nation state of Australia. She spells out the seven main pillars of this state of exception (the doctrine of *terra nullius*, the impact of settler colonial racism, the removal of Indigenous children from their families, the imprisonment of

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analysis of settler colonialism and genocide, see the study by Damien Short (2016), on the Intervention especially 132–43.

Indigenous men and women, the preservation of the moral ascendancy of settler colonialism, the denial of citizenship and equality to Indigenous Australians, and, finally, the lack of respect and regard for Indigenous cultural ways of being) and emphasises the need to transform the nature of the Australian state to one that includes and accommodates all peoples.

In his article “Sporting Intervention: The Northern Territory National Emergency Response and Papunya Football”, Barry Judd argues that the Intervention was a return to policy and discursive frameworks that were dominant before 1967 and aimed at the elimination of Indigenous peoples from Anglo-Australia. He provides a summary of two centuries of discursive and legislative methods applied to exclude Indigenous people from Australian society on the basis of their Otherness, or of their “pre-historical, pre-ethical and pre-civilised” natures. The Intervention resulted in further marginalisation of Indigenous Australians and Judd uses the example of the people of the remote community of Papunya, who were confronted with mounting hostility and denigration from the largely non-Indigenous population of Alice Springs even during participation in the famously-egalitarian sport of Australian (Rules) Football. The people of Papunya have reacted to their renewed exclusion from Anglo-Australia with Indigenous separatism and formed their own football league, which will allow them to play and watch the sport in ways congenial to their own cultural traditions.

Leon Terrill, in his article “Change from the Ground up: The Intervention and Indigenous Land Reform”, outlines the land reforms introduced as part of the Intervention and some of the debates surrounding them: compulsory acquisition by the Australian Government of five-year leases over communities on Indigenous land, compulsory acquisition of town camp land, changes to the permit system and a new form of occupancy rights for the government called “statutory rights”. With the exception of the changes to the permit system, which remain in place, all land reforms expired with the end of the Intervention in August 2012; however, a new land reform specific to so-called Indigenous community living area land was introduced within the Stronger Futures legislation, which replaced the Intervention. According to Terrill, the land reforms introduced as part of the Intervention were “flawed, messy and patently discriminatory” and geared towards direct government control over land use.

Shelley Bielefeld focuses on the infringement of human rights, and specifically the right to protection from racial discrimination, in the context of the Intervention and its successor framework Stronger Futures. In her article “The Intervention, Stronger Futures and Racial Discrimination: Placing the Australian Government under Scrutiny”, she analyses the

Intervention measures in the light of the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) and discusses the multiple breaches by the Intervention legislation of the provisions of ICERD. Her two main examples from the Intervention, income management and criminalising the possession of alcohol, are measures that continue under ongoing Stronger Future legislation.

The articles by Michelle Dunne Breen and Katrin Althans investigate the discursive strategies surrounding the Intervention. In her article “Rampant Misrepresentation: News Reportings’ Recurrent Lexical Choices”, Michelle Dunne Breen analyses the extensive newspaper reporting about the findings of the LCASR in the short period between the release of the report and the launching of the Intervention. She concludes that journalists, by following the practice of herd reporting, by inaccurate recurrent lexical choices and by focusing on recurring themes—such as “rampant”, “every community/all communities” and “children as young as three”—gave a crucially false impression of the report’s contents. The media thus failed to fulfill their democratic watchdog role in relation to the interests and perspectives of Indigenous Australians; the article’s findings therefore undermine the promulgated legitimacy of the Intervention as a response to the LCASR.

Expanding on the theme of promulgated legitimacy, Katrin Althans analyses in “Stories of the Intervention: The Narrative Power of the Law” major legal and semi-legal documents concerning the Intervention in the light of a narrative theory of law. She argues that the legal sources themselves have shaped the discourse of the Intervention and have come to constitute the only narrative valid in official discourse, silencing dissenting voices. Thus, she shows that the legal narrative of the Intervention legislation undermines the authority of the narrative presented in the LCASR, while simultaneously allegedly implementing its recommendations. The narrative first introduced through media coverage, which presents a story of crime and punishment and makes Indigenous culture responsible for child sexual abuse, is adopted by the legal narrative and is continued in the Stronger Futures legislation.

The next four chapters by Hanne Birk, Dorothee Klein, Victoria Herche and Elisabeth Baehr explore representations of the Intervention in literature, film and visual art. Addressing culture-specific narrative strategies and drawing on a functional model of literature, Hanne Birk, in “A ‘Place to Start’: First Australian Stories Negotiating the Intervention”, analyses novels by Bruce Pascoe regarding the ways in which they negotiate cultural identities and envisage transcultural processes of change. Strategies include fictional counter-historiographies from a

marginalised perspective or the articulation of traumatic experiences. Comparing Pascoe’s pre- and post-Intervention novels, she shows that the latter display a new sense of urgency to effect socio-cultural change, e.g. the necessity to break with dominant cultural hierarchies and stereotypical images of the Other as victim or problem, and the call for Indigenous self-determination and pride.

In her article “The Intervention in Indigenous Literature: Alexis Wright’s *The Swan Book*”, Dorothee Klein explores the extent to which concepts such as normalcy or normativity are contingent on cultural difference. She analyses Alexis Wright’s most recent novel *The Swan Book* (2013) through the dual lenses of disability and postcolonial studies and explores the ways in which the novel subverts hegemonic discourses of normalcy and the practice of equating normalcy and sovereignty. Her analysis demonstrates that the novel invites readers to engage with alternative knowledge systems and ways of being and to listen to the voices of those who are deemed Other or dysfunctional.

Victoria Herche, in “Reassessing Indigenous Self-Determination in Rolf de Heer’s *Charlie’s Country* (2014)”, focuses on the representation of self-determination in de Heer’s fictional engagement with the Intervention and community life in his film *Charlie’s Country*. After outlining the controversial debate concerning Indigenous self-determination, she analyses Charlie’s failed attempt to reconnect with his ancestral way of life, as well as his struggle for self-determination in the face of Indigenous disadvantage and the strictures of non-Indigenous Australia as epitomised by his passage through “white” institutions such as hospital, court and prison. Set in a remote community, the film emphasises Indigenous disadvantage and offers non-Indigenous viewers insight into a reality they rarely acknowledge.

Elisabeth Baehr’s article, “‘An Australian Government Initiative: Criminal’: The Intervention in Australian Art”, focuses on responses to the Intervention in visual art. After discussing the use of visual art for political commentary and its impact on viewers’ opinions, she analyses the means by which artists encourage political discourse. Her examples are four artworks by Chips Mackinolty, Jason Wing, Blak Douglas (aka Adam Hill) and Teena McCarthy, which were shown in the exhibitions “Ghost Citizens: Witnessing the Intervention” and “iNtervention Intervention”. Placing the discussed works in historical context, she concludes with references to other artworks witnessing the long history of Indigenous repression in Australia.

Samantha Disbray and Brian Devlin focus on the closure of the bilingual education programme in the Northern Territory in 2008. In their

article “Imposed Solutions versus Local Aspirations: Two Recent Policy Decisions Affecting Remote Education in the Northern Territory”, they contend that the closure of the programme and its replacement with the “First Four Hours English” policy was closely linked to the Intervention launched the year before: both were motivated by the ideological shift away from Indigenous self-determination, compliant to the rhetoric of Indigenous dysfunction and failure and replacing local aspirations with imposed solutions. Disbray and Devlin trace the decades of bilingual education (1973–2008), when English was taught in tandem with Indigenous languages in some schools, to the threatened closure of the programme in 1998 and its actual closure in 2008. More recent developments are characterised by the standardisation and commodification of education; the authors argue that Indigenous Education Strategy since the Intervention has remained focused on the discourse of failure and on “Closing the Gap”.

The final two chapters are devoted to historical contexts and discourses. In his article “The Protector of Aborigines in Colonial Western Australia: Origins of Humanitarian Interventions”, Alexander Bräuer argues that the Intervention of 2007 must be seen as part of a long series of interventions into Indigenous ways of life, starting in the 19th century. His case study is the implementation of the first intervention in Australia, the Protectorates for Indigenous people in Western Australia, specifically in York, in the 1840s and 1850s. Bräuer’s article demonstrates that the Protectorates established a paradigm for later interventions by developing institutional structures and knowledge that would be drawn upon again and again.

Finally, Stefanie Affeldt, in her article “‘Who are the Aborigines?’: Western Images of Indigenous Australians”, traces stereotypical representations of Indigenous Australians from the first documented instances of Indigenous-European contact to the present day. Contextualising historical notions such as “Australian Negroes”, “Black Caucasians” and “Poorest Objects of the Habitable Globe” and exploring the multiple functions the concepts served, she shows that former discriminating images of Indigenous Australians continue to inform present-day discourse and serve to legitimate government intervention and policy.

A note on terminology: throughout the book we have used the more inclusive term Indigenous, including both Aboriginal and Torres Strait Islander peoples, to refer to Australia’s First People, with the exception of the contribution by Victoria Grieves, who preferred to use the term Aboriginal.

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# CHAPTER ONE

## THE INTERVENTION: THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH?

LINDSAY FROST<sup>1</sup>

### 1 Introduction

The title of this article is a deliberate lie. It is impossible to tell the truth, the whole truth and nothing but the truth about one of the largest socio-deterministic experiments in Australian history: i.e. the legal, political and funding programme related to Indigenous Australians of the Northern Territory (NT),<sup>2</sup> which was announced to the press by the Australian Prime Minister, John Howard, on June 21, 2007. The policy was officially known as the Northern Territory National Emergency Response (NTNER), and colloquially as the “Intervention”.

The goal in writing this article was to provide the necessary historical background for the other articles in this book, by simply collating, comparing and summarising information from government reports and academic publications regarding the events and context of the Intervention. The scope of this article therefore covers only the first five years of the Intervention, and not the “Stronger Futures” policy changes implemented thereafter. The scope does not include comparing the effectiveness of various alternative policies for achieving stated goals or for avoiding “collateral damage”. By the nature of the method, mainly topics within the

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<sup>1</sup> The author is grateful to Professor Jon Altman for comments on a previous draft of this chapter, and to the Australian National Library for maintaining a searchable archive of deleted or moved government web content, at <http://webarchive.nla.gov>.

<sup>2</sup> Some few non-Indigenous Australians in the NT were also potentially affected by legislation, if they were living in the areas covered by the new legislation.

remit of institutional bodies are covered, and not, e.g. the positive social ties within communities, nor the achievements due to charitable organisations or to self-help. Each section of the text concludes with a short summary. The final section suggests major reasons for the gap between rhetoric and results.

Primary sources are listed for information. All sources suffer from varying degrees of bias, institutional blinkers, sampling errors or limitations of scope. Greater weight is therefore given to examples that disprove hypotheses (identifying data that invalidates a source's conclusions or the prevalent policy) rather than attempting to prove conjectures.

The author's personal experience with Indigenous communities is limited to approximately two dozen visits over the last three decades, to the areas of Darwin, Alice Springs, Yuendumu, Papunya, Wirrimanu, Ikuntji, Warmun, or Utopia, as a collector of Indigenous contemporary art.

## 2 The Beginning

### 2.1 Politics of the Northern Territory

The implementation of the Intervention occurred within a political, historical and economic framework that requires a brief introduction for non-Australian readers. The NT is a vast area, four times larger than Germany, and its state capital (Darwin) is further from the Australian capital (Canberra) than Lisbon from Warsaw. The total population in the NT in 2011 was only about 200,000 people, of whom 31% identify themselves as being of Indigenous Australian descent. At the time of the 2006 census, most Indigenous people (i.e. approximately 42,000 people)<sup>3</sup> lived in a large number of small communities: fully one third of them scattered in 29 groups of 100–200 people, 50 groups of 50–100 people and 510 groups of 50 people or less (ABS 2006, Sheet 10). The non-Indigenous population is concentrated in and around Darwin, or in Alice Springs.

The biggest single employer in the NT in 2011 was the government, providing jobs for about 14% of the working population (ABS 2011d). It

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<sup>3</sup> Various estimates of the Indigenous Australian population in the NT for 2011 are quoted in the literature, between 41,000 and 50,000 persons, depending on usage of estimates of the Australian Bureau of Statistics based on data from 2006 or the corrected (higher) numbers from the census of 2011, or even higher numbers involving extrapolations.

is important to note that, according to a newspaper report from 2012, “[a]bout 80 per cent of the NT government’s budget comes from Commonwealth sources” (Hunt 2012), which implies that the federal government can bring a lot of pressure to bear if it wants specific legislation enacted in the NT. Federal government also retains the power to directly create laws applying to the NT (as was done for the Intervention).

Politically, the NT was administered by South Australia until 1911, thereafter by the federal government, until independent powers equivalent to statehood were obtained in 1978. The local government system (municipalities, councils, shires, etc.) has several times been changed by the parliament of the NT and not in ways such as to strengthen the influence or empowerment of the Indigenous people who make up the majority population across very wide areas of the state (Sanders 2009, 4–6; CLC 2013, 10–13).<sup>4</sup> The NT parliament averages only one or two members of Indigenous descent, out of a total of 25 (Parliament 2015).

Politics at state and communal level can have further negative practical effects which are hard to predict or rectify: for example, the amalgamation of councils into shires in 2008 meant that council assets such as cars or jeeps were no longer informally available for routine “helping out” in the community, leading to more people driving unsafe or unregistered vehicles and more cases of imprisonment for traffic violations (Anthony and Blagg 2012, 57).

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<sup>4</sup> An example can be found in a 2011 report from Amnesty International: “In July 2008 small town councils, community government councils, Aboriginal corporations and associations and other local government structures were amalgamated into larger regional or mega-shires in the Northern Territory [...]. In the case of the Utopia homelands, their own Urapuntja Council was dissolved and replaced by a larger regional shire—the Barkly Shire Council. Each of the 16 wards in Utopia was represented on the [previous] Urapuntja Council—this has decreased to three representatives under the shire system. The amalgamations brought together a wide variety of regional and disparate interests from pastoral, mining, Indigenous and non-Indigenous town-based and remote representatives on shire boards [...]. The Aboriginal voice, despite being the dominant demographic in the region, has been diluted by the amalgamation into mega-shires” (Amnesty International 2011, 24–25). Note that this administrative change was *not* part of the Intervention legislation, but *did* have the effect of wiping out many existing decision-making bodies where Indigenous people had formerly had strong influence.

Regarding state politics, a NT government report from 2012 noted that

[t]he relationship between the Commonwealth and NT Governments can generally be summed up as the Commonwealth believing the NT lacks capability and competence, while the NT Government perceives the Commonwealth Government, particularly Canberra-based officers, as having a poor and/or very limited understanding of the complexities and challenges confronting the NT (Havnen 2012, 2).

Federal government Indigenous policies are summarised in a 2010 report from the Federal Department of Finance and Deregulations saying

[t]he history of Commonwealth policy for Indigenous Australians over the past 40 years is largely a story of good intentions, flawed policies, unrealistic assumptions, poor implementation, unintended consequences and dashed hopes (NCOA 2014, 39).

In summary, the NT is a huge area governed mainly from the state capital, Darwin, by a state parliament which is vitally reliant on federal funding and which on average has at most one or two delegates of Indigenous descent. The NT parliament has been seen to act during the Intervention years in ways that reduce influence from remote communities and Indigenous committees. There is deep mistrust between the NT parliament and the federal government.

## 2.2 The Media Announcement(s)

On June 21, 2007, the Intervention was announced to the Australian media by Prime Minister John Howard and Mal Brough, the federal Minister for Indigenous Affairs, outside the doors of Parliament House in Canberra. In the first seconds of his statement, Howard declared a “national emergency in relation to the abuse of children in Indigenous communities in the Northern Territory”. He went on to say that, he was

sickened and horrified by the level of abuse [...] [and] deeply disturbed at the widespread nature of that abuse [...]. We’re doing this because we do not think the Territory has responded to the crisis affecting the children [...] and we believe that our responsibility to those children overrides any sensitivities of Commonwealth Territory relations (PM Transcripts 2007).

The acknowledged trigger for the emergency response was the public release six days earlier, on June 15, of the report *Ampe Akelyernemane Meke Mekarle, Little children are sacred: Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from*

*Sexual Abuse* (Wild and Anderson 2007).<sup>5</sup> The report made a large number of recommendations and emphasised the need for consultation and collaboration with the stakeholders and Indigenous peoples. Mal Brough later made an astounding public statement claiming that neither he nor the federal government had seen the report prior to its public release (HRC 2008, 205). This represents either mendacity or culpable ignorance, since NT ministers could have provided copies on request at any time in the prior six weeks.

The report had been instigated by the NT government, following a public outcry generated a year earlier by a series of media stories on the ABC's *Lateline*, including horrific court case examples described by Nanette Rogers, Crown Prosecutor for twelve years in Alice Springs (ABC 2006a). The ABC *Lateline* stories included, for example, a personal statement by Mal Brough on June 21, 2006, that

[e]verybody in those communities knows who runs the paedophile rings. They know who brings in the petrol, they know who sells the ganja. They need to be taken out of the community and dealt with, not by tribal law, but by the judicial system that operates throughout Australia (ABC 2006b).

The statement by the Minister was given weight by a purported eyewitness account from a self-described former youth worker, who was kept anonymous due to his stated fears for his safety, but who was later revealed never to have lived in the relevant community (Mutitjulu), to have lied in a number of crucial particulars and, furthermore, to be working as Assistant Secretary for the Minister (Thomson 2006; ABC 2006b; Graham 2012). The allegations about a paedophile ring were later intensively investigated by NT police and the Australian Crime Commission, which found no evidence supporting the claims (McKenzie 2009).

The ABC story was never retracted, despite requests from senior people in Mutitjulu, and was highly influential because, according to the ABC's own surveys, "we have an institution that, to this day, 85 per cent of the Australian public believe provides a valuable service; that more than 70 per cent of the Australian public watch, listen or log on to every week" (Ludlam 2014).

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<sup>5</sup> The NT government had received it six weeks earlier. That is a relatively short period of deliberation. Some federal reports on Indigenous issues have waited 18 months before being publicly released.

A number of commentators (see, e.g. a summary in Altman 2007) later remarked upon possible political motivations and even the strange urgency of the Intervention:

On the day the intervention was announced Howard had been Prime Minister for 11 years. In that time there had been 13 official inquiries into sexual abuse of Aboriginal children, 3 of them federal [...] – enough opportunities for him to act (Creative Spirits 2013).<sup>6</sup>

Four months later, on November 24, the Australian Liberal Party lost the federal election and John Howard was replaced as Prime Minister by Kevin Rudd (Labor Party), who—despite large political differences between the two parties—announced continued support of the Intervention. Some months later, on February 13, 2008, Rudd gave his famous “Sorry” speech to the Australian House of Representatives, apologising to Indigenous people of the Stolen Generations for their “profound grief, suffering and loss” (Australian Government 2008).

In summary, the government media releases portrayed the Intervention as an emergency response by the federal government, motivated by a moral imperative to react to widespread problems of violence and (sexual) abuse of children in Indigenous communities in the NT, to correct the lack of action by the elected NT state government responsible. This article will examine the truth of those assertions. It is clear, however, that the NT government was hardly given time to react to the *Little Children are Sacred* report and that the Federal Minister for Indigenous Affairs was: (a) by his own statements fully ignorant of the report’s contents, (b) advised by an Assistant Secretary prepared to lie on national television and (c) unwilling to retract extremely damaging misinformation.

### 2.3 Laws Enacted and Human Rights

The legislation comprising the permanent framework of the Intervention was introduced into parliament, then passed on August 7, 2007, about seven weeks after the *Little Children are Sacred* report became public, and about 13 weeks after it had been delivered confidentially to the NT government (Edmunds 2010, 5). The Legal and Constitutional Committee

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<sup>6</sup> Many of the earlier reports are available at the Indigenous Law Centre of the University of NSW ([www.ilc.unsw.edu.au/node/1423](http://www.ilc.unsw.edu.au/node/1423)) including links to 15 published since 2002.